UNITED STATES PATENT AND TRADEMARK OFFICE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>09 June 2009</u>.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-29</u> is/are pending in the application.

　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-29</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　a) ☐ All　b) ☐ Some * c) ☐ None of:

　　1. ☐ Certified copies of the priority documents have been received.

　　2. ☐ Certified copies of the priority documents have been received in Application No. _____.

　　3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
　Paper No(s)/Mail Date <u>12/10/08, 6/9/09</u>.

4) ☐ Interview Summary (PTO-413)
　Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____ .

DETAILED ACTION

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1.   Claims 1-29 remained pending.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-29, are rejected under 35 U.S.C. 103(a) as being unpatentable over by Serkin et al

(Hereinafter Serkin U.S Publication 2002/0161687) in view of Madoff et al (Hereinafter

Madoff U.S Publication 2001/0044767).

        As per claim 1, Serkin discloses a computer-implemented method of facilitating trading at

a market method comprising:

under control of instructions that are executed by one or more computer processors:

receiving input from a market participant at a market participant's computer, wherein the market

participant is a trading party participating in the market with other market participants, wherein

the input provides a price for a side of a trade at the market, and wherein the input satisfies a

market-related condition, and automatically (see column 1 para 0003 and para 0006 and column

4 para 0054 and column 5 para 0060 and column 6 para 0073 and column 7 para 0080).

        Serkin fail to explicitly teach at the market participant's computer, receiving from the market

a new contra-side best market price for the trade in advance of the other market participants as a

result of satisfying the market-related condition and only while the market-related condition is

satisfied by the input received at the market participant's computer.

        However Madoff discloses according to an aspect of the invention, a method of auctioning

products over a distributed networked computer system is provided. The method is executed over

the system and includes entering an order for a product. The order can specify a price. The price

can be a fixed price, a relative price or a market price. The order also specifies a quantity and an exposure time. The process also includes entering a response to an order, the response specifying a price, price improvement, and quantity and matching the order with the response in accordance with the exposure time specified by the order.(Note abstract and see para 0006-0011 and para 0055-0057 and 062).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Madoff to include at the market participant's computer, receiving from the market a new contra-side best market price for the trade in advance of the other market participants as a result of satisfying the market-related condition and only while the market-related condition is satisfied by the input received at the market participant's computer taught by Serkin in order to provide an automated auction system for trading products such as equity and securities.

As per claim 2, Serkin discloses wherein the satisfying and receiving are performed by a trading process (see column 1 para 0003 and para 0006 and column 4 para 0054 and column 5 para 0060 and column 6 para 0073 and column 7 para 0080).

As per claim 3, Serkin discloses wherein the input satisfies the market-related condition by providing the best market price for a side of the market (see column 1 para 0003 and para 0006 and column 4 para 0054 and column 5 para 0060 and column 6 para 0073 and column 7 para 0080).

As per claim 4, Serkin discloses computer-implemented method of facilitating trading at a market method comprising:
automatically, via a computer, selecting a party to receive notification of a new contra- side best market price for a trade at the market in advance of other market participants, wherein the selected party is participating in the market with the other market participants, and wherein the selected party has provided a price for a side of the trade at the market, automatically, (see column 1 para 0003 and para 0006 and column 4 para 0054 and column 5 para 0060 and column 6 para 0073 and column 7 para 0080).

Serkin fail to explicitly teach via the computer or another computer, notifying the selected party of the new contra-side best market price for the trade in advance of the other market participants; and

automatically, via the computer or another computer, measuring a predetermined time from when notification of the new contra-side best market price was sent to the selected party and, after the predetermined time has elapsed, notifying the other market participants of the new contra-side best market price.

However Madoff discloses according to an aspect of the invention, a method of auctioning products over a distributed networked computer system is provided. The method is executed over the system and includes entering an order for a product. The order can specify a price. The price can be a fixed price, a relative price or a market price. The order also specifies a quantity and an exposure time. The process also includes entering a response to an order, the response specifying a price, price improvement, and quantity and matching the order with the response in accordance with the exposure time specified by the order.(Note abstract and see para 0006-0011 and para 0055-0057 and 062).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Madoff to via the computer or another computer, notifying the selected party of the new contra-side best market price for the trade in advance of the other market participants and automatically, via the computer or another computer, measuring a predetermined time from when notification of the new contra-side best market price was sent to the selected party and, after the predetermined time has elapsed, notifying the other market participants of the new contra-side best market price taught by Serkin in order to provide an automated auction system for trading products such as equity and securities.

As per claim 5, Serkin discloses, wherein the selected party is a provider of a best market price for a side of the trade at the market (see column 1 para 0003 and para 0006 and column 4 para 0054 and column 5 para 0060 and column 6 para 0073 and column 7 para 0080).

As per claim 6, Serkin discloses further comprising checking, via the computer or another computer, the identity of the selected party before notifying the selected party of the new contra-side best market price (see column 1 para 0003 and para 0006 and column 4 para 0054 and column 5 para 0060 and column 6 para 0073 and column 7 para 0080).

As per claim 7, Serkin discloses further comprising checking, via the computer or another computer, a recently posted price to determine if the recently posted price is a new contra-side best market price and if so then automatically notifying the selected party of

the new contra side best market price(see column 1 para 0003 and para 0006 and column 4 para 0054 and column 5 para 0060 and column 6 para 0073 and column 7 para 0080).

As per claim 8, Serkin discloses system for facilitating trading at a market comprising: a computer having a processing component and a memory, wherein the processing component is configured to execute instructions stored in the memory that cause the processing component to select a party to receive notification of a new contra-side best market price for a trade at the market in advance of other market participants, wherein the selected party is a market participant participating in the market with the other market participants, and wherein the selected party has provided a price for a side of the trade at the market and (see column 1 para 0003 and para 0006 and column 4 para 0054 and column 5 para 0060 and column 6 para 0073 and column 7 para 0080).

Serkin fails to explicitly teach wherein the processing component is further configured to execute instructions stored in the memory that cause the processing component to measure a predetermined time from when notification of a new contra-side best market price is sent to the selected party and, after the predetermined time has elapsed, to notify the other market participants of the new contra-side best market price.

However Madoff discloses according to an aspect of the invention, a method of auctioning products over a distributed networked computer system is provided. The method is executed over the system and includes entering an order for a product. The order can specify a price. The price can be a fixed price, a relative price or a market price. The order also specifies a quantity and an exposure time. The process also includes entering a response to an order, the response specifying a price, price improvement, and quantity and matching the order with the response in accordance with the exposure time specified by the order.(Note abstract and see para 0006-0011 and para 0055-0057 and 062).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Madoff to include wherein the processing component is further configured to execute instructions stored in the memory that cause the processing component to measure a predetermined time from when notification of a new contra-side best market price is sent to the selected party and, after the predetermined time has elapsed, to notify the other market participants of the new contra-side best market price as taught by Serkin in

order to provide an automated auction system for trading products such as equity and securities.

   As per claim 9, Serkin discloses wherein the selected party is a provider of a best market price
for a side of the trade at the market (see column 1 para 0003 and para 0006 and column 4 para
0054 and column 5 para 0060 and column 6 para 0073 and column 7 para 0080).

      As per claim 10, Serkin discloses wherein the the selected party of the new contra-side best
market price in advance of the other market participants only while the price provided by the
selected party remains the best market price for the side of the market (see column 1 para 0003
and para 0006 and column 4 para 0054 and column 5 para 0060 and column 6 para 0073 and
column 7 para 0080).

      As per claim 11, Serkin discloses wherein the is further configured to check a recently
posted price for the side of the market to determine if the price is better than the price provided
by the selected party, and if so, to replace the selected party with the provider of the recently
posted price as a newly selected party to receive a new contra-side best market price in advance
of the other market participants (see column 1 para 0003 and para 0006 and column 4 para 0054
and column 5 para 0060 and column 6 para 0073 and column 7 para 0080).

      As per claim 12, Serkin discloses wherein the is configured to check a recently posted price
to determine if the recently posted price is a new contra-side best market price before notification
of the recently posted price is sent to a market participant (see column 1 para 0003 and para 0006
and column 4 para 0054 and column 5 para 0060 and column 6 para 0073 and column 7 para
0080).

      As per claim 13, Serkin discloses a tangible computer-accessible medium having
executable instructions stored thereon for facilitating trading at a market, wherein the
instructions~ if executed by a computer, cause the computer to:
select a party to receive notification of a new contra-side best market price for a trade at the
market in advance of other market participants, wherein the selected party is a market participant
participating in the market with the other market participants, and wherein the selected party has
provided a price for a side of the trade at the market;
notify the selected party of the new contra-side best market price (see column 1 para 0003 and

para 0006 and column 4 para 0054 and column 5 para 0060 and column 6 para 0073 and column 7 para 0080).

Serkin fail to explicitly teach measure a predetermined time from when notification of the new contra-side best market price is sent to the selected party and after the predetermined time has elapsed, notify the other market participants of the new contra-side best market price.

However Madoff discloses according to an aspect of the invention, a method of auctioning products over a distributed networked computer system is provided. The method is executed over the system and includes entering an order for a product. The order can specify a price. The price can be a fixed price, a relative price or a market price. The order also specifies a quantity and an exposure time. The process also includes entering a response to an order, the response specifying a price, price improvement, and quantity and matching the order with the response in accordance with the exposure time specified by the order (Note abstract and see para 0006-0011 and para 0055-0057 and 062).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Madoff to include measure a predetermined time from when notification of the new contra-side best market price is sent to the selected party and after the predetermined time has elapsed, notify the other market participants of the new contra-side best market price taught by Serkin in order to provide an automated auction system for trading products such as equity and securities.

As per claim 14, Serkin discloses wherein the selected party is a provider of a best market price for a side of the trade at the market (see column 1 para 0003 and para 0006 and column 4 para 0054 and column 5 para 0060 and column 6 para 0073 and column 7 para 0080).

As per claim 15, Serkin discloses wherein the instructions cause the computer to notify the selected party of the new contra-side best market price in advance of the other market participants only while the price provided by the selected party remains the best market price for the side of the market (see column 1 para 0003 and para 0006 and column 4 para 0054 and column 5 para 0060 and column 6 para 0073 and column 7 para 0080).

As per claim 16, Serkin discloses wherein the instructions cause the computer to check a recently posted price for the side of the market to determine if the price is better than the price provided by the selected party, and if so, to replace the selected party with the provider of the

recently posted price as a newly selected party to receive a new contra-side best market price in advance of the other market participants (see column 1 para 0003 and para 0006 and column 4 para 0054 and column 5 para 0060 and column 6 para 0073 and column 7 para 0080).

As per claim 17, Serkin discloses wherein the instructions further cause the computer to check a recently posted price to determine if the recently posted price is a new contra-side best market price before sending notification of the recently posted price to a market participant. (see column 1 para 0003 and para 0006 and column 4 para 0054 and column 5 para 0060 and column 6 para 0073 and column 7 para 0080).

As per claim 18, Serkin discloses a tangible computer-accessible medium having executable instructions stored thereon for facilitating trading at a market, the market having a best market price for a side of a trade at the market and a best market price for a contra-side of the trade at the market, wherein the instructions if executed by a computer cause the computer to: receive an order having a new price for a side of the trade at the market (see column 1 para 0003 and para 0006 and column 4 para 0054 and column 5 para 0060 and column 6 para 0073 and column 7 para 0080) determine if the new price is better than the best market price for the side of the trade at the market, and when the new price is better than the best market price for the side of the market, the instructions further cause the computer to (see column 1 para 0003 and para 0006 and column 4 para 0054 and column 5 para 0060 and column 6 para 0073 and column 7 para 0080) identify a trading party that is currently providing the best market price for the contra-side of the market, and notify the trading party of the new price(see column 1 para 0003 and para 0006 and column 4 para 0054 and column 5 para 0060 and column 6 para 0073 and column 7 para 0080).

Serkin fail to explicitly teach wherein the notification is sent to the trading party in advance of sending notification of the new price to other market participants in the market such that the trading party is given a first look at the new price before the other market participants.

However Madoff discloses according to an aspect of the invention, a method of auctioning products over a distributed networked computer system is provided. The method is executed over the system and includes entering an order for a product. The order can specify a price. The price can be a fixed price, a relative price or a market price. The order also specifies a quantity and an exposure time. The process also includes entering a response to an order, the response specifying

a price, price improvement, and quantity and matching the order with the response in accordance with the exposure time specified by the order (Note abstract and see para 0006-0011 and para 0055-0057 and 062).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Madoff to include wherein the notification is sent to the trading party in advance of sending notification of the new price to other market participants in the market such that the trading party is given a first look at the new price before the other market participants taught by Serkin in order to provide an automated auction system for trading products such as equity and securities.

As per claim 19, Serkin discloses wherein the instructions further cause the computer to measure a predetermined time from when notification of the new price is sent to the trading party and, after the predetermined time has elapsed, to notify the other market participants parties of the new price (see column 1 para 0003 and para 0006 and column 4 para 0054 and column 5 para 0060 and column 6 para 0073 and column 7 para 0080).

As per claim 20, Serkin discloses wherein the instructions further cause the computer to send the notification of the new price to trading party only while the trading party is currently providing the best market price for the contra-side of the trade at the market (see column 1 para 0003 and para 0006 and column 4 para 0054 and column 5 para 0060 and column 6 para 0073 and column 7 para 0080).

As per claim 21, Serkin discloses wherein the input is received from a market participant operating the market participant's computer (see column 5 lines 25-40 and column 6 lines 1-42 and column 13 lines 1-14).

As per claim 22, Serkin discloses further comprising communicating the input from the market participant's computer to a market process, wherein the market process is configured to provide an exchange at which the market participants engage in a trade, and wherein the new contra-side best market price is automatically received from the market process in advance of the other market participants only while the input continues to satisfy the market-related condition (see column 1 para 0003 and para 0006 and column 4 para 0054 and column 5 para 0060 and column 6 para 0073 and column 7 para 0080).

As per claim 23, Serkin discloses wherein the market participant's computer receives the new contra-side best market price in advance of the other market participants for a determined amount of time, after which the new contra-side best market price is provided to the other market participants(see column 1 para 0003 and para 0006 and column 4 para 0054 and column 5 para 0060 and column 6 para 0073 and column 7 para 0080).

As per claim 24, Serkin discloses wherein for a sell side of the market, the new contra-side best market price is higher than the previously highest bid price offered by at least one of the other market participants, or for a buy side of the market, the new contra-side best market price is lower than the previously lowest ask price offered by at least one of the other market participants(see column 1 para 0003 and para 0006 and column 4 para 0054 and column 5 para 0060 and column 6 para 0073 and column 7 para 0080).

As per claim 25, Serkin discloses wherein for a sell side of the trade at the market, the best market price is the lowest ask price that any of the market participants have offered to take to sell, or for a buy side of the trade at the market, the best market price is the highest bid price that any of the market participants have offered to pay to buy (see column 1 para 0003 and para 0006 and column 4 para 0054 and column 5 para 0060 and column 6 para 0073 and column 7 para 0080).

As per claim 26, Serkin discloses wherein for a sell side of the trade at the market, the new contra-side best market price is higher than the previously highest bid price offered in the market, or for a buy side of the trade at the trade at the market, the new contra-side best market price is lower than the previously lowest ask price offered in the market (see column 1 para 0003 and para 0006 and column 4 para 0054 and column 5 para 0060 and column 6 para 0073 and column 7 para 0080).

As per claim 27, Serkin discloses wherein for a sell side of the trade at the trade at the market, the best market price is the lowest ask price that any of the market participants have offered to take to sell, or for a buy side of the trade at the market, the best market price is the highest bid price that any of the market participants have offered to pay to buy (see column 1 para 0003 and para 0006 and column 4 para 0054 and column 5 para 0060 and column 6 para 0073 and column 7 para 0080).

As per claim 28, Serkin discloses a computer system configured to facilitate trading at a market, comprising:

means for receiving input from a market participant that provides a price for a side of a trade at the market, wherein the market participant is a trading party participating in the market with other market participants, and wherein the input satisfies a market-related condition by providing the best market price for the side of the trade at the market(see column 1 para 0003 and para 0006 and column 4 para 0054 and column 5 para 0060 and column 6 para 0073 and column 7 para 0080).

Serkin fail to explicitly teach means for receiving from the market a new contra-side best market price for the trade in advance of the other market participants as a result of satisfying the market-related condition and only while the market-related condition is satisfied by the received input.

However Madoff discloses according to an aspect of the invention, a method of auctioning products over a distributed networked computer system is provided. The method is executed over the system and includes entering an order for a product. The order can specify a price. The price can be a fixed price, a relative price or a market price. The order also specifies a quantity and an exposure time. The process also includes entering a response to an order, the response specifying a price, price improvement, and quantity and matching the order with the response in accordance with the exposure time specified by the order (Note abstract and see para 0006-0011 and para 0055-0057 and 062).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Madoff to include means for receiving from the market a new contra-side best market price for the trade in advance of the other market participants as a result of satisfying the market-related condition and only while the market-related condition is satisfied by the received input taught by Serkin in order to provide an automated auction system for trading products such as equity and securities.

As per claim 29, Serkin discloses a computing device that facilitates trading at a market, comprising: a processor configured to select a party to receive notification of a new contra-side best market price for a trade at the market in advance of other market participants, wherein the selected party is a market participant participating in the market with the other market

participants, and wherein the selected party has provided a price for a side of the trade at the market, wherein the processor or another processor in the computing device is configured to notify the selected party of the new contra-side best market price for the trade and to measure a predetermined time from when notification of the new contra-side best market price is sent to the selected party(see column 1 para 0003 and para 0006 and column 4 para 0054 and column 5 para 0060 and column 6 para 0073 and column 7 para 0080). and

wherein the processor or another processor in the computing device is configured to notify the other market participants of the new contra-side best market price after the predetermined time has elapsed

Serkin fail to explicitly teach wherein the processor or another processor in the computing device is configured to notify the other market participants of the new contra-side best market price after the predetermined time has elapsed.

However Madoff discloses according to an aspect of the invention, a method of auctioning products over a distributed networked computer system is provided. The method is executed over the system and includes entering an order for a product. The order can specify a price. The price can be a fixed price, a relative price or a market price. The order also specifies a quantity and an exposure time. The process also includes entering a response to an order, the response specifying a price, price improvement, and quantity and matching the order with the response in accordance with the exposure time specified by the order (Note abstract and see para 0006-0011 and para 0055-0057 and 062).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Madoff to include wherein the processor or another processor in the computing device is configured to notify the other market participants of the new contra-side best market price after the predetermined time has elapsed taught by Serkin in order to provide an automated auction system for trading products such as equity and securities.

CONCLUSION
Response to Arguments

4.   Applicant's arguments files on 6/9/09 have been fully considered but they are moot in view of new grounds of rejections.

5.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B. Graham whose telephone number is 571-272-6795. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thom Dixon can be reached on (571) 272-6803803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

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USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Frantzy Poinvil/
Primary Examiner, Art Unit 3696

CG
Sept 9, 2009